

## **§ 71.37**

settlement include a monetary offer in compromise considered satisfactory to the appropriate TTB officer, in which event the proceeding shall be held in abeyance pending final action on such monetary offer in compromise.

[T.D. ATF-244, 51 FR 45762, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

### **§ 71.37 Notice of contemplated action.**

Where the appropriate TTB officer believes that the matter may be settled informally, i.e., without formal administrative proceedings, he shall, in accordance with section 5 (b) of the Administrative Procedure Act, prior to the issuance of a citation, inform the permittee of the contemplated issuance of an order to show cause why his permit should not be suspended, revoked or annulled, and that he is being given an opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment. The notice should inform the permittee of the charges on which the citation would be based, if issued, and afford him a period of 10 days from the date of the notice, or such longer period as the appropriate TTB officer deems necessary, in which to submit proposals of settlement to the appropriate TTB officer. Where informal settlement is not reached promptly because of inaction of the permittee or proposals are made for the purpose of delay, a citation shall be issued in accordance with §§ 71.55 and 71.56.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9196, Mar. 6, 1985; T.D. ATF-244, 51 FR 45763, Dec. 22, 1986; T.D. ATF-374, 61 FR 29957, June 13, 1996]

### **§ 71.38 Limitation on informal settlement.**

Where the evidence is conclusive and the nature of the violation is such as to preclude any settlement short of suspension, revocation or annulment, or the violation is of a continuing character that necessitates immediate action to protect the public interest, or where the appropriate TTB officer believes that any informal settlement of the alleged violation will not insure future compliance with the laws and regulations, or in any similar case where

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the circumstances are such as to clearly preclude informal settlement, and the appropriate TTB officer so finds and states his reasons therefor as provided in § 71.35, he may restrict settlement to that provided in § 71.71.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

## **Subpart E—Grounds for Citation**

### **§ 71.45 Basic permits.**

Whenever the appropriate TTB officer has reason to believe that any person has willfully violated any of the conditions of his basic permit, or has not in fact or in good faith engaged in the operations authorized by such permit for a period of more than two years, or that such permit was procured through fraud, misrepresentation or concealment of material facts, he shall issue a citation for the suspension, revocation or annulment of such permit, as the case may be.

[21 FR 1441, Mar. 6, 1956, as amended by T.D. 6389, 24 FR 4790, June 12, 1959. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

### **§ 71.46 Tobacco permits.**

Whenever the appropriate TTB officer has reason to believe that any person has not in good faith complied with any of the provisions of 26 U.S.C. chapter 52 or regulations issued thereunder, or has not complied with any provision of 26 U.S.C. which involves intent to defraud, or has violated any of the conditions of his permit, or has failed to disclose any material information required, or has made any materially false statement, in the application for his permit, or has failed to maintain his premises in such manner as to protect the revenue, the appropriate TTB officer shall issue a citation for the revocation or suspension of such permit.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55846, Sept. 28, 1979; T.D. ATF-374, 61 FR 29957, June 13, 1996]